

ACT anent the selling of the Lands of forfeaulted
Persons. 20. February, 1645.

THe Estates of Parliament now convened in the second Session of this first triennall Parliament, by vertue of the last Act of the last Parliament holden by his Majestie and the three Estates in Anno 1641. Considering that the Estates of Parliament by their Act of the date the 27. of July 1644. Considering that it was against all equitie and reason, That the Vassals, Cautioners, and true and reall Creditors of any person or persons, of whatsoever qualitie, that should be forfeaulted in this present Parliament, or at any time thereafter, should be prejudged by the forfealture of the saids persons off their right of propertie of any Lands, Wodsets, and others, holden by them of the saids forfeaulted persons, or of the payment of their just Debts, and reliefe of their true and reall Cautionries, for payment and relief whereof the saids forfeaulted persons stood obliged, the saids Vassals, Creditors, and Cautioners foresaids, not being airt, pairt, accessarie, nor assisting to the crimes for which the sentence and doome of forfealture was or should be decerned: Therefore the saids Estates fand, decerned, and declared, That the Vassals of any person or persons of whatsoever qualitie, who were or should happen to be forfeaulted in that present Parliament, or at any time thereafter, for whatsoever cause, ground, or occasion, whereupon sentence and doome of forfealture should be given and pronounced against them, should not be prejudged anent their right and propertie of the Lands, Annuall-rents, Wodsets, and others holden by them of the saids forfeaulted persons; but that the saids Vassals should be in that same case and condition with these who comes in the right and place of the saids forfeaulted persons, as the saids Vassals were with the samin forfeaulted persons, their Superiors, before the Sentence and Doome of forfealter, The saids Vassals no wayes being airt, pairt, accessory, nor assisting to the saids forfeaulted persons, in the committing of the crimes or deeds, for the which the Sentence or Doome of forfealter, was, or should be given against them, as said is. And also found and Declared, That the true Creditors and Cautioners of the saids forfeaulted persons, or these who had any part of the fines assigned to them by the Publick, should no wayes be prejudged by the foresaid forfealter, anent the payment of the saids Creditors, of their reall, just, and true Debts owing and assigned to them, and anent the saids Cautioners their relief of their just and true Ingagements, and Cautionries, but that the saids Creditors and Cautioners *respectivè*, should have action and execution for their payment and relief *respectivè*, against the Lands and Estate of the forfeaulted persons, their Debtors sicklike, and in the samin manner, as if they had not been forfeaulted; Providing the saids Creditors and Cautioners have not been airt, pairt, accessory, nor assisting to the saids forfeaulted persons in the committing of the Crimes for which they were or should be

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forfeaulted:

forfaulted: And with provifion, That they be Vaffals, Creditors, and Cautioners, before the committing of the Crimes, whereupon the Forfaulter follows, as the faid Act of the date forefaid propoerts. And, The faids Eftates of Parliament now prefently convened alfo, confidering That feverall perfons were forfaulted in the laft Seflion of this prefent Parliament: And that divers and fundry perfons are and have been forfaulted in this prefent Seflion of Parliament. As alfo confidering, That it is expedient both for the weale of the lawfull Creditors and Cautioners of perfons forfaulted heretofore, or who fhall happen to be forfaulted hereafter: And for the weale of thefe to whom the perfons forfaulted, or who fhall happen to be forfaulted in this prefent Seflion of Parliament, are bound as Cautioners for any other perfon or perfons. And als, for the weale of the Publick for defraying of the Publick charges of the Eftates of this Kingdom, That ane juft and expedite way be taken for the difcovery of the juft and lawful Debts, owing by any perfon or perfons, either already forfaulted before the date of thir prefents, or who fhall happen to be forfaulted hereafter in this prefent Seflion of Parliament, to their juft and lawfull Creditors to whom the faids perfons forfaulted, or to be forfaulted, are Debtors as Principals, or whom the faids perfons forfaulted, or to be forfaulted, are Debtors in the way of lawfull relief: They being Cautioners for the faids perfons forfaulted, or to be forfaulted, or to whom the faids perfons forfaulted, or to be forfaulted, are Cautioners for any other perfon or perfons. And to the effect, that all perfon or perfons, who are either Creditors or Cautioners to the perfons forfaulted, or to be forfaulted, or to whom the faids perfons forfaulted, or to be forfaulted, are Cautioners, May in due time, both for their own, and the Publick weale, make their Debts owing to them by the faids perfons forfaulted, or to be forfaulted, either as Principals or Cautioners in manner abovespecified, known to the Eftates of this Kingdom, that they may have the benefit of the forefaid Act of the date the 27 July 1644. And that their Debts being known and fatisfied, and paid by the courfe afterfpecified; The remainder of the Lands, Eftate, and Goods, of the forefaids perfons forfaulted, or to be forfaulted, and hail farther benefit thereof, may expeditely and conveniently come in to the Eftates of this Kingdome, for the weale of the Publick, and for the relief of the Publick Burdens. Therefore the faids Eftates of Parliament, Statutes and Ordains, That all perfon or perfons whatsoever, to whom any perfon already forfaulted before the date of thir prefents, or who fhall happen to be forfaulted in this prefent Seflion of Parliament, Is addebted juftly and really in any fums of money, or any otherwife, either as Principall Debtors, or as Cautioners for any other perfons. And als, that all perfons who are Cautioners for any perfons already forfaulted, or who fhall happen to be forfaulted in this prefent Seflion of Parliament, to their lawfull Creditors; Shall exhibit and produce before the Committee of Eftates, to be appointed to fit at Edinburgh, or where it fhall happen them to be for the time after the rifing of this prefent Seflion of Parliament, Their whole Rights, Writs, Evidents, and other lawful Securities, whereby the faids perfons forfaulted, or to be forfaulted in this prefent Seflion of Parliament, are their juft and

and reall Debtors, either as Principall Debtors to them, or as Debtors to them as Cautioners for other persons, or whereby they are Cautioners for the saids forfaulted persons, or to be forfaulted in this present Session of Parliament: And which Cautioners, the saids forfaulted, or to be forfaulted persons in this present Session, are obliged in law to relieve. And that the production of the foresaids Writs, Evidents, and Securities, in so far concerns any persons forfaulted heretofore, or in the present Session of Parliament, Be made by the Creditors and Cautioners, so many of them as are without the Countrey, within three moneths; and these that are within the Countrey, within threescore dayes, after publication hereof at the Head Burghs of the severall Sheriffdoms within the Kingdom: With certification to all and whatsomever the Creditors of the persons already forfaulted heretofore, or to be forfaulted in this present Session; That if they failzie, To exhibit and produce before the Committe of Estates Their foresaids Writs, Evidents, and Securities, made to them by the saids forfaulted persons within the Diets *respectivè* foresaids: That the foresaids Creditors, shall never in any time thereafter, Have any action against the Lands, Estates, and Goods of the foresaids forfaulted persons, for payment of their debts upon the pretence of the foresaid Act of the 27. July last, or upon any other pretence whatsoever: But that the Lands, Estate, and Goods of the foresaids forfaulted persons shall pertain to the Publick. Neither shall they have any action against their Cautioners, but prejudice alwayes to them after production, in manner, and at the time foresaid, to take presently back their Writs and Pursue: But prejudice also to the saids Creditors of their action and execution competent to them against their Cautioners, conforme to their Bands and Rights. It is also declared for the Cautioners of the saids forfaulted, or to be forfaulted persons, that they shall not be holden to produce the Writs and Bands wherein they are Cautioners, But onely to give in a note under their hands of the names of the Creditors to whom they are Cautioners, and of the sums contained thereintill (Because the Writs and other Securities wherein they are Cautioners, are not their evidents and in their option, but in the hands of the Creditors to whom they are principally made) Likeas the saids Estates of Parliament, Finds and decerns the samin, To pertaine to the publick for reliefe of their publick Debts and Burdens in all time hereafter, without any Burden of payment of the Debts owing to the saids Creditors failzing, to produce and make known their Debts, at the time, and in manner foresaid. It is also declared, That where the Creditors or Cautioners are Minors, Their Tutors and Curators are obliged in the like manner, To produce their Bands, Rights, or Notes; or otherwise be lyable to their Minors, for refunding their damage and interest. Likeas also the Estates of Parliament, considering That the foresaid persons already forfaulted, may be ingaged in manner abovespecified, either as Principals or Cautioners to divers and severall persons their Creditors: To which Creditors no present payment of their Debts can be made in a present convenient and expedit way, without the selling of the Lands, Heritages, and Estates, which pertained to the fore-

persons forefaulted before their forefaulter; The sale whereof can-
 be expeditedly done, neither for the weale of the saids Creditors,
 nor for the weale of the Publick. And to the effect the saids Creditors
 may have satisfaction in a just and reasonable way, out of the saids
 persons, their Lands, Heritages, and Estate, And that the
 residue thereof, may come into the Publick of this King-
 dom; Therefore the Estates of Parliament, Decernes and Ordaines,
 That the foresaids Creditors or Cautioners shall be obliged, To ac-
 ceptane proportionall part of the Lands and Heritages of the saids
 persons forefaulted their Debtors *respectively*, for their Debts owing to
 them, being instructed at the time and in manner abovespecified, at
 the sight and determination of the said Committee of Estates: And
 that at the rate and proportion of One hundredth Merks of ordinar
 yearly constant Rent for ilk sum of Two thousand Merks, addebted
 by the saids forefaulted persons, to their saids Creditors or Caution-
 ers; or otherwise to be deprived of the benefit of the Act of Parlia-
 ment 27. July 1644. and to be reduced to the old estate of the
 Creditors of forefaulted persons, as if the samin had never been made.
 Likeas also, It is statute and Ordained, That the superplus of the
 Lands, Heritages, and Estate of the foresaids forefaulted persons (their
 Creditors foresaids being satisfied in manner abovespecified) shall and
 may be divided in parcels, and sold and dispoined by the Estates
 of this Kingdom, or by the said Committee of Estates to any buyer
 whatsoever, paying present money over the Table, at the rate of One
 hundredth Merks of yearly constant Rent for ilk sum of One thousand
 Merks, as the price thereof: And where present money for the Lands
 cannot be had nor offered, that then they may be sold and dispoined to
 any person to whom the Publick is addebted, They advancing in ready
 money the one half, at ten years purchase, and accompting in payment
 of their debts, being lent money, or furnishing to the Armies: the
 other half, at the rate of fiteene years purchase. Likeas, The saids
 Estates of Parliament, do by thir presents, give full power and Com-
 mission to the said Committee of Estates, To divide the Lands, and
 others of the foresaids forfeited Persons; And to that effect, To take up
 the just and true Rentall thereof, and to estimat and convert Victuall
 and other Rent (not being silver Rent) and to redact the samin to
 money Rent, and to sell and dispoine the residue and remainder of the
 Lands, Heritages, and Estates of the foresaids forfeited Persons, to any
 Buyer, at the rate and in manner foresaid. Likeas, The Estates of Parlia-
 ment decerns and declares, That the Dispositions so to be made there-
 of to the foresaids Creditors above-specified, and to the saids Buyers,
 shall be valide sureties to them thereof, in all time-coming. And sic-
 ke Ordains Insealments to passe under the Great Seal, upon the fore-
 saids Dispositions, to be made by the said Committee of Estates, of
 the Lands and others, holden of the Kings Majestie, and Prince. And
 Presentations to be granted by the said Committee of Estates, to
 other Superiours, of so many of the foresaids Lands, and others above-
 specified, as are holden of the saids others Superiours.